

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

-against-

RAFAEL RODRIGUEZ,  
Defendant.

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SUPPLEMENTAL  
NOTICE OF MOTION  
07 CR 387 (CM)

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affirmation of Paul P. Rinaldo, Esq., attorney for the defendant herein, the affidavit of the defendant, and all the papers and proceedings heretofore had herein, the undersigned attorney will move this Court on the 9<sup>th</sup> day of May, 2008, at the United States Courthouse, 300 Quarropas Street, White Plains, New York, for the following relief:

1. An order pursuant to Rule 12(b)(3)(c) of the Federal Rules of Criminal Procedure suppressing physical evidence seized by law enforcement authorities intended to be introduced against the defendant on the trial of this Indictment, or, in the alternative, an Order directing that a pre-trial evidentiary hearing be held to determine whether the evidence was recovered in violation of the defendant's rights under the Fourth Amendment to the United States Constitution.



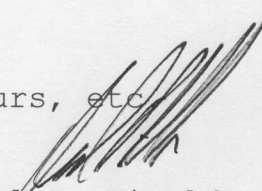
2. An order for such other and further relief as the Court deems just and proper.

Dated: April 8, 2008  
Forest Hills, NY

Yours, etc

To: Honorable Colleen McMahon  
United States District Judge

Nola B. Heller, Esq.  
Assistant U.S. Attorney



Paul P. Rinaldo  
Attorney for Defendant  
108-18 Queens Boulevard  
Forest Hills, NY 11375  
718-520-8722



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,

-against-

ATTORNEY'S AFFIRMATION  
SUPPORT OF DEFENDANT'S  
MOTION

07 CR 387 (CM)

RAFAEL RODRIGUEZ,  
Defendant.

-----x

PAUL P. RINALDO, ESQ., deposes and says under the penalty of perjury:

1. I am an attorney duly admitted to practice in the United States District Court for the Southern District of New York. I represent the defendant in the instant criminal proceeding. This affirmation is respectfully submitted in support of the defendant's supplemental motion herein.

2. I am familiar with the facts and circumstances surrounding this prosecution. This affirmation is made upon information and belief based on conversations with the defendant, a review of Rule 16 discovery, and the testimony adduced at the pre-trial hearing of the defendant's original motion to suppress.

3. On April 2, 2008, the Court conducted a hearing on the defendant's motion to suppress certain items seized from a vehicle in which he was a passenger. That motion was denied. However, at



the conclusion of the hearing, defense counsel moved for the suppression of a bullet proof vest which was recovered from the defendant at the time of his arrest, or in the alternative, for permission to supplement defendant's motion to request suppression of the vest. The Court has granted the request to supplement defendant's original motion.

4. At the April 2, 2008 hearing, Detective Costello testified that he heard Detective Goldrick state "He's got a vest" and that Goldrick told him that he touched the defendant to get his attention.

5. The defendant states in his affidavit annexed hereto that he was grabbed by one of the detectives as he exited the vehicle, placed against the car and searched. That search revealed the bullet vest which he was wearing under his tee shirt and sweatshirt.

The defendant submits that there was no reasonable suspicion or probable cause to stop him and search his person and requests suppression of the vest.



WHEREFORE, your affiant respectfully requests this Court issue an order directing the suppression of evidence or, in the alternative, direct that a hearing be held upon the within motion to suppress and such other and further relief as the Court deems just and proper.

A handwritten signature in black ink, appearing to read 'Paul P. Rinaldo', is written over a horizontal line.

Paul P. Rinaldo

Dated: April 8, 2008  
Forest Hills, NY